

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

EQUAL EMPLOYMENT	)	
OPPORTUNITY COMMISSION,	)	
	)	
Plaintiff,	)	CIV-21-00483-HE
	)	
v.	)	
	)	
HILAND DAIRY FOODS	)	November 2022 Trial Docket
COMPANY, LLC,	)	
	)	
Defendant.	)	

**JOINT MOTION TO CONTINUE AND/OR SPECIALLY SET TRIAL**

Plaintiff Equal Employment Opportunity Commission (“EEOC”) and Defendant Hiland Dairy Foods Company, LLC (“**Hiland**”) jointly move the Court to continue the trial to the December 2022 trial docket and/or to specially set trial the week of November 28, 2022.

1. Trial is currently set for the Court’s November 2022 trial docket, and Docket Call is set for October 26, 2022. *See* Order (Doc. No. 85).
2. On or about October 6, 2022, EEOC first learned that one of its testifying experts, Dr. Matthew Goren, a practicing ophthalmologist and medical professor from Chicago, Illinois, has a family medical emergency that impacts his ability to testify at trial during the first half of November 2022.
3. Specifically, Dr. Goren’s father is suffering from end stage renal disease and is contemplating starting dialysis, which Dr. Goren believes will prevent him from



traveling, including to a previously planned work trip to India. Thus, Dr. Goren is unable to testify on or before November 14, 2022.

4. Dr. Goren's testimony will help the jury understand Berry's disability and functional vision, including his reading and limitations, and the possible accommodations Hiland could have provided Berry. He will also explain to the jury the concepts of legal vision and color vision and opine about the sufficiency of Dr. Kevin Penwell's pre-employment evaluation of Berry. Dr. Goren was not deposed during discovery and Hiland did not move to exclude his testimony before trial.

5. Further, Hiland's witness, Steven Boydston, the Plant Manager of the facility at issue in this case has a non-refundable pre-paid 18th anniversary trip planned with his wife from November 16-22, 2022.

6. Thus, the parties jointly request the Court continue the trial to the December 2022 trial docket and/or specially set the trial the week of November 28, 2022.

7. Previously, on April 25, 2022, the Court entered a Revised Scheduling Order (Doc. No. 85) for all deadlines, including the trial setting, following Hiland's opposed Motion to Reset Scheduling Order and Trial Date (Doc. No. 47) and the parties' April 22, 2022 joint resolution of that motion (Doc. No. 50) agreeing to extend deadlines/trial date by forty-five days. No other prior request to continue or specially set the trial date has been requested by either party.

**WHEREFORE**, the parties respectfully move the Court to continue the trial to the December 2022 trial docket and/or to specially set trial the week of November 28, 2022.



Respectfully submitted,

/s/ Patrick J. Holman

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**ATTORNEYS FOR PLAINTIFF EEOC**

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\*(e-signature provided by EEOC counsel  
with authorization of Hiland counsel)



**CERTIFICATE OF SERVICE**

I hereby certify that on October 17, 2022, I electronically transmitted the attached document to the Court Clerk using the Electronic Case Filing System for filing. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

/s/ Patrick J. Holman  
Patrick J. Holman